

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2014 AUG -7 PM 5: 03

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY DEPUTY

HERSHALL JOSEPH SHELLEY,
PLAINTIFF

v.

CIVIL NO. 1:14-CV-516-LY

COLORADO STATE UNIVERSITY,
Colorado State Board of Agriculture,
Colorado Board of Governors, et al
In its capacity as the entity charged with
The general control and supervision of
Colorado State University,
DEFENDANTS

§
§
§
§
§
§
§
§
§
§

PLAINTIFF SHELLEY's MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

INTRODUCTION

Plaintiff Shelley respectfully moves the Court, pursuant to Federal Rule of Civil Procedure 15 (a) request for leave to file an AMENDED COMPLAINT. A copy of which is attached hereto.

Granting this motion allows Plaintiff Shelley to describe in further detail the bad faith, breach of contract and discriminatory actions toward him taken by Defendants.

STATEMENT OF FACTS

1). Defendant Duff had threatened Plaintiff Shelley several times about the Dell computer.

Defendant Therefore, Plaintiff Shelley told this to Haven, the OEO person. And Haven found it in her old files in OEO building at CSU. But issued an unfavorable investigative report and did not take Duff off Plaintiff Shelley's committee. Sure enough Duff retaliated and told James that Plaintiff had incorrect cites.

2). And CSU tried to get Plaintiff Shelley to accept a master's degree in 2013. However, it

was during the summer of 2013 that Plaintiff Shelley discovered that Duff and James had graduated Hodgson and Jang (less than 40 years old) with degrees that were not drafts in 2010. See Exhibits 11 and 12.

3). See Brenda Sabbath Affidavit. Was not able to obtain until July 21, 2014.

ARGUMENT

PLAINTIFF HAS MET THE STANDARD FOR OBTAINING LEAVE TO FILE AN AMENDED COMPLAINT UNDER FEDERAL RULE OF CIVIL PROCEDURE 15

I. The Efficient Administration of Justice Requires That Plaintiffs be Given Leave to File an Amended Complaint

Federal Rule of Civil Procedure 15(a) requires that leave to file an amended complaint be "freely given when justice so requires." This standard is readily met here, as the more detailed description of the markets at issue in the Amended Complaint narrows the scope of the issues presented in this litigation and will prevent the Court's time from being wasted at trial.

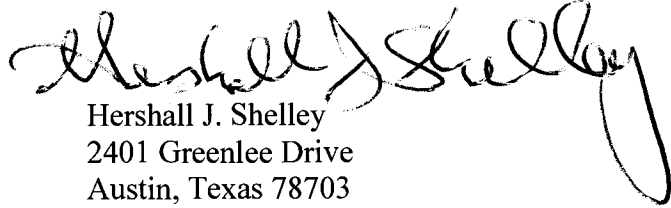
II. Defendants Will Not Suffer Substantial Prejudice, and There Is No Other Reason Plaintiffs Should Not Be Given Leave to Amend

The U.S. Supreme Court determined that "[I]n the absence of . . . undue delay, bad faith or dilatory motive . . . undue prejudice . . . futility of amendment, etc.--the leave sought should . . . be 'freely given.'" *Foeman v. Davis*, 371 U.S. 178, 182 (1962). The Sixth Circuit applies a balancing test of these factors, which turns on *substantial prejudice* to the opposing party. See, e.g., *Lawson v. Truck Drivers, Chauffeurs & Helpers, Local Union 100*, 698 F.2d 250, 256 (6th Cir. 1983); *Hageman v. Signal L.P. Gas, Inc.*, 486 F.2d 479, 484 (6th Cir. 1973).

No such prejudice exists here. The facts described in the Amended Complaint are well-known to Defendants,

CONCLUSION

For the reasons and arguments identified above, Plaintiff Shelley requests that the Court grant Plaintiff's motion for leave be granted.



Hershall J. Shelley
2401 Greenlee Drive
Austin, Texas 78703
Tel: (512) 477-3136

!

This is to certify that a true and correct copy of the foregoing **PLAINITFF SHELLEY's MOTION FOR LEAVE TO FILE AMENDED COMPLAINT** has been served to the Court and First Class Mail upon the person listed below on August 7th, 2014.

Nanneska N. Hazel
114 W. 7th Street, Suite 1100
Austin, Texas 78701
(512) 495-1400

ATTORNEYS FOR DEFENDANT